



## **Town of Moultonborough Zoning Board of Adjustment**

### **Notice of Decision** **Request for Variance from Article III.B.4** **Michael R. Uhre Intervivos Trust** **Tax Map 251, Lot 1**

**August 10, 2020**

**Applicant:** **Michael R. Uhre Intervivos Trust**  
**13259 SW 43<sup>rd</sup> Street**  
**Davie, FL 33330**

**Location:** **49 Bartlett Landing Road (Tax Map 251, Lot 1)**

On August 5, 2020 the Zoning Board of Adjustment of the Town of Moultonborough held a remote public hearing on the application for the Michael R. Uhre Intervivos Trust (hereinafter referred to as the “Applicant” and/or “Owner”) for an application for a Variance from Moultonborough Zoning Ordinance Article III.B.4 for the construction of a dwelling with an existing attached garage to be located 8’11” from the lake on a parcel located in the Residential/Agricultural Zoning District.

Based on the application, testimony given at the hearing, and supporting documentation and plan(s), the Board hereby makes the following findings of fact:

- 1) The property is located at 49 Bartlett Landing Road (Tax Map 251, Lot 1).
- 2) The Michael R. Uhre Intervivos Trust Agreement is the owner of record for the lot.
- 3) The lot is in the Residential Agricultural (R/A) Zoning District.
- 4) The Applicant was represented by Attorney Christopher Boldt of Donahue, Tucker & Ciandella, PLLC.
- 5) The existing foundation is located 15’2” at its closest point to the Lake, almost wholly within the 50-ft setback from the Lake.
- 6) The existing deck is located 2-ft at its closest point to the Lake.
- 7) The existing detached garage is located completely outside of the 50-ft setback from the Lake.

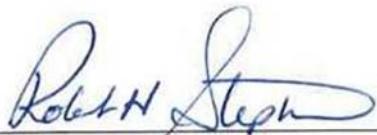
- 8) The property is serviced by an existing 3-bedroom septic system, which was approved by DES in 2013.
- 9) The Applicants are proposing to remove the existing 3-bedroom structure and rebuild a new 3-bedroom residence attaching an existing conforming garage.
- 10) The proposed deck will be located 8'11" at its closest point to the Lake, and the foundation to the west will be 25'7" at its closest point to the Lake.
- 11) The proposed construction will require an approved NH DES Shoreland Impact Permit.
- 12) Two abutters submitted emails in support of the project.
- 13) There were no members of the public wishing to speak on this application during the public hearing at the Zoom meeting or by email or telephone.
- 14) Granting the Variance would not be contrary to the public interest since (1) the Proposed Dwelling (and deck) would be located approximately 6'11" (deck) farther back from the Lake than the Existing Deck and the foundation will be moving over 10 feet farther back from the Lake. The Proposed Dwelling will not alter the essential character of the neighborhood or threaten the public health, safety or welfare because the Proposed Dwelling will be in keeping with the size and the existing development in the immediate area along Bartlett Landing Road and will obtain the necessary DES Shoreland Impact Permit and comply with the Town's regulations.
- 15) Granting the Variance would be consistent with the spirit of the Ordinance similarly, for the same reasons stated above. Additionally, the location of the Proposed Dwelling is driven by the limitation of allowable building envelop considering the unaltered area of tree coverage and existing septic system & leach field, and the proposed addition does not threaten the public health, safety, or welfare.
- 16) By granting the Variance, substantial justice would be done because there would be no gain to the public benefit by requiring a new dwelling to be constructed entirely within the building envelope given the constraints of the property.
- 17) Granting the Variance would not diminish the value of surrounding properties as the construction would be new, best management practices will be utilized and water quality would be positively affected by said construction.
- 18) Special conditions exist such that a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship because of the size, shape and location of the Property, the Property has the existing compliant Garage, leach field and circular driveway around a substantial area of unaltered forested land; and has very little pre-existing tree coverage in the area of the Proposed Dwelling making it unreasonable to require an attempt to comply with the ordinance requirements.

On August 5, 2020, the Zoning Board of Adjustment voted by a vote of four (4) in favor (Stephens, DeMeo, Jenny, Hopkins) and one (0) opposed (Bickford) to grant the request for the variance for

Michael R. Uhre Intervivos Trust, Tax Map 251, Lot 1 for the construction 3-bedroom house attached to the existing conforming garage within the required 50-ft lake setback and noting that no portion of the existing house structure needs to be retained, subject to the following conditions: 1) Receipt of the required DES Shoreland Impact Permit be submitted to the Land Use Office prior to submittal of the demolition and building permit application submittal; 2) That all Best Management Practices be employed during construction to include sedimentation and erosion control measures, and for rain water runoff via infiltration trenches and/or rain barrels; 3) Revegetate the area around the dwelling to restore it to a natural state; 4) The location of the foundation being certified as stipulated on the plan reviewed and approved by the Board at this evening's meeting; 5) Confirmation from DES that the existing 3-bedroom septic system, which was approved by DES in 2013 can be upgraded if necessary, and further to close the Public Hearing. They moved to direct Staff to draft a formal Notice of Decision for review and approval for signing at the next meeting.

The Board of Adjustment, on August 19, 2020, approved this formal Notice of Decision language and authorized the Chairman to sign the Notice of Decision and send to the applicant and place same in the case file by a vote of four (4) in favor (Stephens, Bickford, DeMeo, Jenny) and one (1) abstention (St. Peter).

The decision made to Approve the variance on August 5, 2020, shall not take effect until thirty (30) days have elapsed and no request for rehearing has been filed in accordance with RSA 677:2, or that if such request has been filed, it has been dismissed or denied, in accordance with RSA 677:3.



Robert H. Stephens  
Chairman, Zoning Board of Adjustment  
cc. Christopher Boldt (by email only at [cboldt@dtclawyers.com](mailto:cboldt@dtclawyers.com))  
Map Lot Document File

Date: August 20, 2020